

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

HUSSAIN JIYAD AL-JABARI,)
Petitioner,)
v.) 4:18-cv-00408-LSC-TMP
U.S. ATTORNEY GENERAL OF)
AMERICA,)
Respondent.)

MEMORANDUM OF OPINION AND ORDER

On August 6, 2018, the magistrate judge filed his Report and Recommendation, recommending that this petition for *habeas corpus* relief filed pursuant to 28 U.S.C. § 2241 be denied and dismissed without prejudice. (Doc. 10). No objections have been filed. However, after having now carefully reviewed and considered *de novo* all the materials in the court file, the Court is of the opinion that the report is not due to be adopted and the recommendation is not due to be accepted at this time.

Respondent argued that Petitioner should not be allowed to seek duplicative habeas relief in this Court while he remains part of a certified class of individuals pursuing identical relief in a class habeas in the U.S. District Court for the Eastern District of Michigan, styled *Hamama v. Adducci*, No. 17-cv-11910 (E.D. Mich.).

(*See* doc. 7). In response, Petitioner stated that he is no longer part of the *Hamama* subclass and has submitted a signed “Detainee Stipulation to Prompt Removal to Iraq,” dated May 15, 2018, wherein he stipulates that he wishes to be removed to Iraq and that the preliminary injunction in *Hamama* will no longer prevent that removal. (*See* doc. 9.) The magistrate judge recommended dismissal of this action without prejudice, however, because Petitioner has not demonstrated that he (or class counsel on his behalf) has submitted the aforementioned “Detainee Stipulation to Prompt Removal to Iraq” with a request to be removed from the subclass to the U.S. District Court for the Eastern District of Michigan, or that the Michigan court has issued a stipulated order removing Petitioner from the subclass and, thus, from the stay of removal.

Contrary to the report of the magistrate judge, this Court is of the opinion that Petitioner’s pleading entitled “Detainee Stipulation to Prompt Removal to Iraq” (doc. 9 at 7) is sufficient to be considered Petitioner’s statement of his intent to withdraw from the subclass.

Respondent is thus ordered to SHOW CAUSE within fourteen (14) days from the date of entry of this Order as to why that should not be the case, and as to why this action should not continue to proceed on Petitioner’s claims.

The Clerk is directed to forward a copy of the foregoing to Petitioner.

DONE AND ORDERED ON SEPTEMBER 18, 2018.



L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE

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